

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
GREEN BAY DIVISION**

JESSICA L. GAUTHIER
N5438 County Road AA
Suring, WI 54174,

Case No. 2018CV000202
Case Code: 30107

Plaintiff,

WISCONSIN DEPARTMENT OF HEALTH SERVICES
OFFICE OF LEGAL COUNSEL
1 West Wilson Street
Madison, WI 53703,

Subrogated Plaintiff,

vs.

THE COCA-COLA COMPANY
1 Coca Cola Plaza N.W.
Atlanta, GA 30313,

and

WAL-MART STORES, INC.
702 SW 8th Street
Bentonville, AK 72716,

Defendants.

NOTICE OF REMOVAL

COMES NOW Defendant Wal-Mart Stores, Inc. (“Defendant”) through its attorneys, MWH Law Group LLP, pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, and hereby removes the above-captioned cause of action from the State Court for Shawano County to the United States

District Court for the Eastern District of Wisconsin - Green Bay Division. In support thereof, Defendant states the following:

1. This action was originally filed by Plaintiff against Defendants on or about September 20, 2018, in the State Court for Shawano County, entitled *Jessica L. Gauthier and Wisconsin Department of Health Services Office of Legal Counsel v. The Coca-Cola Company and Wal-Mart Stores, Inc.* Pursuant to 28 U.S.C. § 1446(a), a copy of the Complaint is attached as **Exhibit No. 1**.

2. Personal service was made upon the Defendant's Registered agent on or about December 6, 2018. A copy of the Return of Service to each Defendant is attached as **Exhibit No. 2**.

3. This case may be removed from the State Court for Shawano County to the United States District Court for the Eastern District of Wisconsin - Green Bay Division, pursuant to 28 U.S.C. § 1332. The United States District Court has original jurisdiction over the litigation filed in state court based on diversity of the parties.

4. This is a civil action in which Plaintiff claims she is entitled to damages for personal injury resulting from an incident that occurred at the Wal-Mart Supercenter store located at 1244 East Green Bay Street, Shawano, Wisconsin, Shawano County on September 22, 2015. Plaintiff is seeking damages of past and future pain and suffering, loss of capacity for the enjoyment of life, past and future medical care and treatment, and future loss of earning capacity. (Id. ¶ 16.) The amount in controversy exceeds the sum or value of \$75,000.00, exclusive of interests and costs.

5. Defendant Wal-Mart Stores, Inc. is a Co-Defendant in this action. Walmart Inc. is incorporated in Delaware and has as their principal place of business in Bentonville, Arkansas, and is deemed a citizen of both Delaware and Arkansas pursuant to 28 U.S.C. 1332(c)(1).

6. Defendant Coca-Cola Company is a Co-Defendant in this action. Coca-Cola is incorporated in Georgia and has as their principal place of business in Atlanta, Georgia and is deemed a citizen of Georgia pursuant to 28 U.S.C. 1332(c)(1).

7. Coca-Cola has given written consent for removal of this action from the State Court for Shawano County to the United States District Court for the Eastern District of Wisconsin - Green Bay Division.

8. Plaintiff is a citizen and resident of Oconto County, Wisconsin.

9. The time for filing this notice of removal has not run because thirty (30) days has not expired since December 6, 2018, the date on which Defendant Wal-Mart Stores, Inc. was personally served with the Original Summons and Complaint.

10. Counsel that has appeared on behalf of Plaintiff in the state court is:

Gary Cirilli, Esq., State Bar No. 1000633
Cirilli Law Offices, S.C.
116 E Davenport Street,
Rhineland, WI 54501
Telephone: (715) 369-3443

11. This Notice of Removal is being served upon the Plaintiff's counsel and Subrogated Plaintiff's counsel by mail and it is being filed with the Clerk of the State Court for Shawano County.

WHEREFORE, Defendant gives notice that the above-captioned action now pending against it in State Court for Shawano County is removed therefrom to the United States District Court for the Eastern District of Wisconsin - Green Bay Division.

Respectfully submitted,

By: /s/ Eric L. Andrews
MWH LAW GROUP
Eric L. Andrews
State Bar No. 1068550
735 N Water Street, Suite 610
Milwaukee, WI 53202
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PROOF OF SERVICE

I hereby certify that on January 4, 2019, I electronically filed the foregoing with the Clerk of the Court using the ECF system which will send notification of such filing to all attorneys of record.

/s/ Mary Multhauf

I further certify that on January 4, 2019, I mailed a copy of the foregoing to opposing counsel at the address listed below:

Gary Cirilli, Esq., State Bar No. 1000633
Cirilli Law Offices, S.C.
116 E Davenport Street,
Rhineland, WI 54501
Telephone: (715) 369-3443

/s/ Mary Multhauf